THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.15175 OF 2007

Dated 27th September, 2007

Between:

M/s Madras Cements Limited …Petitioner

And

The Commercial Tax Officer and another …Respondents

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THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.15175 OF 2007

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

Heard learned counsel for the parties.

In this writ petition, order dated 01-08-2005, which imposed interest in terms of the provisions of the Andhra Pradesh General Sales Tax Act, 1957 (for short "the Act"), has been challenged. This order is mainly challenged on the ground that the order was not communicated to the petitioner.

Counter has been filed, in which it is stated that in fact the order dated 01-08-2005 was dispatched to the petitioner by ordinary post on 30-09-2005.

Therefore, the controversy is limited to decide as to whether service by ordinary post would be service in terms of the Andhra Pradesh General Sales Tax Rules.

In this connection, Rule 58 of the Andhra Pradesh General Sales Tax Rules is the relevant Rule. This Rule prescribes that any notice, summons, order or proceedings under the Act or under the Rules may be effected by giving or tendering it to such dealer or his manager or agent; or when such dealer or his manager or agent is not found by leaving it at his last known place of business or residence or by giving or tendering it to adult member of his family; or if the address of such dealer is known to the assessing authority, by sending it to him by registered post and if it is returned unserved, it shall be put on

notice board of the office of the assessing authority or the notice board in the office of the local Chamber of Commerce or Traders Association, and it shall be deemed that the said notice or summons or proceedings are served on the dealer and action shall be taken in pursuance thereof accordingly. If any or all of the modes aforesaid is not practicable, by affixing it in some conspicuous place at his last known place of business or residence.

There is no mode of a notice being sent by ordinary post. Therefore, this Court cannot presume that by sending the impugned order by ordinary post, it had been actually served on the dealer and since the petitioner has also contended that the order was not communicated to him and even he was not given a chance of hearing before such an order was passed, by allowing this writ petition, we set aside the order dated 01-08-2005 and direct the authority concerned to give a hearing to the petitioner and pass appropriate fresh orders in accordance with law. The contentions available to the petitioner may be raised by him before the authority concerned. No order as to costs.

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Bilal Nazki,J

Dated 27th September, 2007

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Ramesh Ranganathan,J

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